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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/670,019

09/24/2003

Hikari Kawata

121027-198

4531

35684

7590

09/06/2005

BUTZEL LONG
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR, MI 48104

EXAMINER

EVANS, CHIVONNE LAURIE

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/670,019	Applicant(s) KAWATA ET AL.	
	Examiner Chivonne L. Evans	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of **Figure 1** in the reply filed on July 29, 2005, is acknowledged. The traversal is on the ground(s) that the nonelected figures are within the same search. This is not found persuasive because the consideration of undue burden is one that must be made by the Examiner, Applicants' arguments that the search of one invention must necessarily result in a search of the other one has been considered, but is not persuasive insofar as the searches are not co-extensive and an additional search would of necessity, be required for the combination of inventions.

*The restriction is proper, and is therefore made final!
It is in the same § you just omitted it.*

2. **Claims 5-10** are withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a nonelected **Figures 6, 9, and 13**, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 29, 2005.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hansen (4808175). Hansen teaches a disposable article (Figure 1 and Column 2, lines 15-25), with a pouch **14**, attached to the moisture proof-backing panel **11** that extends over the front, intermediate and rear sections of the diaper. The pouch **14** taught by Hansen as cover sheet which is also shown in Figure 1, that is *attached* to the moisture proof back panel (or backsheet) of the diaper defining the pouch. Elastic members taught by Hansen are illustrated in Figure 1 as well, along the longitudinal side edges of the diaper.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen as applied to claim 1 above, in view of Lanmon et al (Des. 343,233). Hansen discloses the invention substantially as claim except for a colored pocket or cover having an indicator. With "colored" being defined as giving a distinctive character or quality to, and an indicator being defined as a signal for attracting attention; Lanmon discloses a diaper with a distinguished coloring on the outer cover with a pocket without

said coloring. The pocket has containment indicators such as "Wipe and Powder Puff" located thereon. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hansen's pocket and backsheet with a design or colored feature and an indicator on the pocket as taught by Lanmon, to distinguish the backsheet from the pocket, as well as, provide indication of the contents of the pouch.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fowler (4732309), Leung (4507121), Feldman (4931052), Masini (5643189), Nissim (5670694), Furuya (5778110), Ives (6454748), Walker (6475204), Pargass (6558499), Masini (6617488), Steger (6911022), Wangberg (3369545), Izzo (4493713), Ryan (4551145), Dean (4923455), Elliot (5071414), Barrett (5141505) and LaVon (2002/0091368) are all prior art relevant to this application. .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chivonne L. Evans whose telephone number is 571-272-8686. The examiner can normally be reached on between 6:30-3:30, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Chivonne L. Evans
Examiner
Art Unit 3761



TATYANA ZALUKAEVA
PRIMARY EXAMINER

